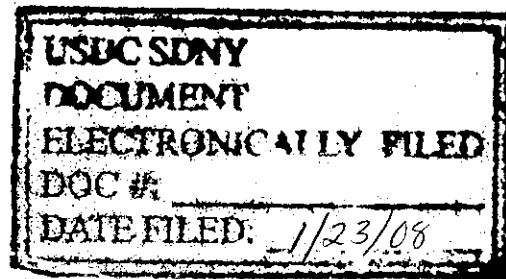


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x
TERENCE WELLS,

Petitioner,

-against-

THOMAS RICKS, Superintendent,
Upstate Correctional Facility,

Respondent.
----- x

:
:
: 07 Civ. 6982 (CM) (AJP)

: **ORDER**

ANDREW J. PECK, United States Magistrate Judge:

While it may not be necessary, in the interest of further developing the record on the Batson issues, this Court will hold a "hearing to reconstruct the prosecutor's state of mind at the time of jury selection." Jordan v. Lefevre, 206 F.3d 196, 202 (2d Cir. 2000), on remand, 97 Civ. 7046, 2000 WL 1877039 (S.D.N.Y. Dec. 27, 2000), aff'd, 293 F.3d 587 (2d Cir. 2002).

The Court expects A.D.A. Schwartz to testify at the hearing based on her recollection, any notes she may have of the voir dire, and her review of the voir dire transcript.

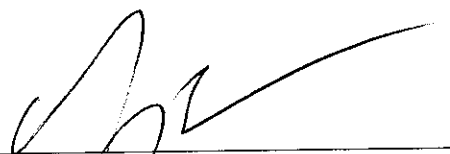
A.D.A. Rosen is to arrange for A.D.A. Schwartz's testimony (the Court understands she still works for the D.A.'s office), confer with counsel for petitioner, and contact my secretary

CAOPIN\

before close of business on Friday, January 25, 2008, to schedule the hearing date.^{1/} The Court desires to have the hearing as soon as possible.

SO ORDERED.

Dated: New York, New York
January 23, 2008



Andrew J. Peck
United States Magistrate Judge

Copies **by fax** to: Kelly Anne Librera, Esq.
Lisa Marie Card, Esq.
Richard Shutran, Esq.
Richard M. Greenberg, Esq.
Sara Gurwitch, Esq.
Eric Rosen, Esq.
Judge Colleen McMahon

^{1/} If the petitioner's counsel wishes for Mr. Wells to be present by videoconference from the prison, they should make the necessary arrangements for that with the Court's audio-visual office (Joel Blum) and with the prison (with help from A.D.A. Rosen as necessary). Petitioner's counsel shall notify the Court that they have made these arrangements or, after consulting with Wells, that his presence at the hearing is waived.